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IN THE COURT OF APPEAL OF THE STATE OF  
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSHUA JAMES WOODARD,

Defendant and Appellant.

B271114

(Los Angeles County  
Super. Ct. No.  
KA105853)

APPEAL from a judgment of the Superior Court of Los Angeles County, Salvatore Sirna, Judge. Reversed and remanded.

Tyrone A. Sandoval, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior

Assistant Attorney General, Mary Sanchez and Chung L. Mar, Deputy Attorneys General, for Plaintiff and Respondent.

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Defendant and appellant Joshua James Woodard entered a plea of no contest in May 2014 to felony forgery of a check (Pen. Code, § 476),<sup>1</sup> admitted a prior conviction under the three strikes law, and was sentenced to state prison for 32 months. Defendant filed a petition<sup>2</sup> pursuant to Proposition 47 (“The Safe Neighborhoods and Schools Act”) and section 1170.18, supported by a copy of a check in the amount of \$632.06, seeking resentencing on the forgery charge as a misdemeanor. The trial court denied the petition on the sole ground that relief under Proposition 47 is not available to a defendant convicted of forgery under section 476. We accept the Attorney General’s concession of error and reverse.

“Proposition 47 changed the law regarding the

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<sup>1</sup> Statutory references are to the Penal Code unless otherwise indicated.

<sup>2</sup> Defendant had previously filed a similar petition, which was denied. This court affirmed the denial on the ground defendant had failed to establish that the value of the check did not exceed \$950. (*People v. Woodard* (Dec. 15, 2015, B262145) [nonpub. opn.].) The affirmance was without prejudice to defendant filing a new petition establishing that the value of the check made him eligible for resentencing.

punishment of forgery by adding section 473, subdivision (b), which provides that ‘any person who is guilty of forgery relating to a check . . . where the value of the check . . . does not exceed nine hundred fifty dollars (\$950), shall be punishable by imprisonment in a county jail for not more than one year.’ (§ 473, subd. (b).) ‘Proposition 47 also created a new resentencing provision: section 1170.18. Under section 1170.18, a person “currently serving” a felony sentence for an offense that is now a misdemeanor under Proposition 47, may petition for a recall of that sentence and request resentencing in accordance with the statutes that were added or amended by Proposition 47. (§ 1170.18, subd. (a).) A person who satisfies the criteria in section 1170.18 shall have his or her sentence recalled and be “resentenced to a misdemeanor . . . unless the court, in its discretion, determines that resentencing the petitioner would pose an unreasonable risk of danger to public safety.” [Citations.]’ (*People v. Salmorin* (2016) 1 Cal.App.5th 738, 743 (*Salmorin*).)

“Section 473 is the statute that governs sentencing for forgery” after the passage of Proposition 47. (*People v. Maynarich* (2016) 248 Cal.App.4th 77, 80 (*Maynarich*) [forgery under section 475]; *Salmorin, supra*, 1 Cal.App.5th at p. 743 [forgery under section 470]; *People v. Hoffman* (2015) 241 Cal.App.4th 1304, 1308-1309, [forgery under section 470].) As the Attorney General concedes, the foregoing authorities establish that forgery of a check, in violation of section 476, is a misdemeanor following the

passage of Proposition 47 if the value of the check does not exceed \$950. The Attorney General further concedes defendant met his burden of proving that the check involved in the underlying conviction did not exceed \$950 by attaching a copy of the check to his petition.

We agree with the parties that the order denying the petition must be reversed. The cause is remanded to the trial court. “Unless the trial court makes a discretionary determination defendant would pose an unreasonable risk of danger to public safety, it must recall his felony sentence and resentence him in accordance with the terms of section 1170.18. (§ 1170.18, subds. (b), (f).)” (*Maynarich, supra*, 248 Cal.App.4th at p. 81.)

### **DISPOSITION**

The order denying the Penal Code section 1170.18 petition is reversed. The cause is remanded to the trial court for further proceedings consistent with this opinion.

KRIEGLER, J.

We concur:

TURNER, P.J.

BAKER, J.